

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

vs.

**22-CR-59**

BENJAMIN BOLTON,

Defendant.

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**STATEMENT OF DEFENDANT WITH RESPECT  
TO SENTENCING FACTORS**

**PLEASE TAKE NOTICE** that the defendant acknowledges receipt of the Pre-Sentence Investigation Report (“PSR”) has reviewed same and has no objections to the report, with the exception of the following:

In Paragraph 46 of the PSR, Mr. Bolton is assigned 2 criminal history points for a misdemeanor criminal conviction. The sentence for that charge was imposed on 5/4/11, which is more that 10 years prior to the current charges.

Counsel has conferred with the government and USPO Ashley McNeal and all are in agreement that these criminal history points do not apply. It is anticipated that the PSR will be revised to remove the points in paragraph 46, change the subtotal criminal history score to 7 (paragraph 50) and the total criminal history score to 9, with a revised criminal history category of IV (paragraph 52). The guideline imprisonment range will be 30 to 37 months (paragraph 62).

DATED: Buffalo, New York  
December 15, 2022

Respectfully Submitted,

s/Judith M. Kubiniec

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**Certificate of Service**

I hereby certify that on December 15, 2022, I electronically filed a **STATEMENT OF DEFENDANT WITH REGARD TO SENTENCING FACTORS** with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants in this case:

Sean C. Eldridge, Esq.  
U.S. Attorney's Office

Ashley S. McNeal  
U.S. Probation Officer

S/Judith M. Kubiniec

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